1	KAMALA D. HARRIS Attorney General of California LINDA K. SCHNEIDER		
2			
3	Supervising Deputy Attorney General RITA M. LANE Deputy Attorney General State Bar No. 171352		
4			
5	110 West "A" Street, Suite 1100 San Diego, CA 92101		
6	P.O. Box 85266 San Diego, CA 92186-5266		
7	Telephone: (619) 645-2614 Facsimile: (619) 645-2061		
8	Attorneys for Complainant	THE WINDS	
9	BEFORE THE BOARD OF REGISTERED NURSING		
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
11		Case No. 2013-809	
12	In the Matter of the Accusation Against:		
13	LUIS A. CERVANTES 13294 Wimberly Sq. Unit 225 San Diego, CA 92027	ACCUSATION	
14			
15	Registered Nurse License No. 609583		
16	Respondent.		
17			
18	Complainant alleges:		
19	PARTIES		
20	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her		
21	official capacity as the Executive Officer of the Board of Registered Nursing, Department of		
22	Consumer Affairs.		
23	2. On or about November 20, 2002, the Board of Registered Nursing issued Registered		
24	Nurse License Number 609583 to Luis A. Cervantes (Respondent). The Registered Nurse		
25	License was in full force and effect at all times relevant to the charges brought herein and will		
26	expire on September 30, 2014, unless renewed.		
27	///		
28	///		
]			

///

///

///

### **JURISDICTION**

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

### STATUTORY PROVISIONS

- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time.
  - 6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

#### COSTS

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

# **CAUSE FOR DISCIPLINE**

(Unprofessional Conduct)

- 8. Respondent is subject to disciplinary action under Code section 2761(a)(1) for unprofessional conduct in the care and treatment of patient A.M. when he failed to perform a physical assessment of the patient while she was in the Emergency Department and for falsifying records by documenting in the patient's medical record that he took her medical history and examined her, when he did not. The circumstances are as follows:
- 9. On December 8, 2010, Respondent was employed as a registered nurse at Pomerado Hospital.
- 10. On or about December 8, 2010, at approximately 8:05 p.m., patient A.M. arrived at the Pomerado Hospital Emergency Department seeking medical care for a knee injury.
- 11. On December 8, 2010, at approximately 9:11 p.m., Respondent made entries in patient A.M.'s medical chart that he assessed and examined her, however Respondent did not speak to or examine the patient while she was in the Emergency Department. Respondent recorded information in patient A.M.'s medical record that was false, by charting he took her medical history, conducted a tuberculosis screen and examined her when he did not.
- 12. Respondent failed to perform a physical assessment of patient A.M. while she was in the Emergency Department, which was required pursuant to Pomerado Hospital's protocol.

## **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 609583, issued to Luis A. Cervantes;
- Ordering Luis A. Cervantes to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

///

///

1	I	
1	3. Taking such other and further action as deemed necessary and proper.	
2		
3	DATED: March 20, 2013 Janise L. Bailey	
4	LQUISE R. BAILEY, M.ED., RM Executive Officer Board of Registered Nursing	
5	Board of Registered Nursing Department of Consumer Affairs State of California	
6	Complainant	
7	SD2012704229	
8	70660114.doc	
9		
10   11		
12		
13		
14		
15		
16		
17	• ·	
18		
19		
20		
21		
22		
24		
25		
26		
27		
28		

Accusation